

REMARKS

Applicants respectfully request reconsideration and allowance.

To establish that a claim is anticipated, the Examiner must point out where each and every limitation in the claim is found in a single prior art reference. *Scripps Clinic & Research Found. v. Genentec, Inc.*, 927 F.2d 1565 (Fed. Cir. 1991). Every limitation contained in the claims must be present in the reference, and if even one limitation is missing from the reference, then it does not anticipate the claim. *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565 (Fed. Cir. 1986). Streter does not teach all of the features recited in the claims.

Streter describes a dual-mode wireless telephone communications system with a digital wireless communications system and an analog wireless communications system. Based on one or more reported blockage factors in the digital wireless system, an MTSO selectively outputs a "rescan" command one or more selected dual-mode wireless telephones in a lowest priority class. The rescan command instructs the selected dual-mode wireless telephone to register with the analog wireless communications system when the dual-mode wireless telephone is in an idle state. In this way, Streter hopes to limit access to the digital system by dual-mode telephones using proactive rescan commands that avoid the necessity of hard handoff or call transfer procedures under heavy traffic load conditions.

The Examiner explains that the failed node is the base station in Streter, the failure is the "blocked" base station, and the message is the reporting of blockage factors to the MTSO. The claims have been amended to distinguish the Examiner's broad reading of a node failure. The independent claims now recite that:

(1) each established connection with a user is handled by an associated data processing circuit,

(2) the detected failure is a failure in a data processing device indicating that the data processing device is not functioning and that it can no longer handle established connections,

(3) each established radio subscriber unit connection is active and ongoing, is associated with one or more radio access bearers, and carries information between a user of the radio subscriber unit and another communicating entity coupled to the external network.

Streter controls a dual mode telephone to register (rescan) with an alternative wireless communications system (see col. 11, lines 25-28) when the current load conditions (as represented by blockage factors) require (see col. 10, lines 38-42). But a dual mode telephone trying to register is not involved in an established connection that is active and ongoing and that carries information between a user of the radio subscriber unit and another communicating entity. Sending a registration message over an access channel would not be understood by a person skilled in the cellular radio communications art as communicating over an established, ongoing, and active connection with the mobile radio user. Registration is a short lived function that occurs without the radio user even knowing about it. Nor is it clear what the another communicating entity coupled to the external network that the user is communicating with in a phone registration operation.

Nor does Streter's blockage factor correspond to a failure in a data processing device indicating that the data processing circuit is not functioning and that it can no longer handle established connections. A failed data processing device responsible for handling one or more active and ongoing mobile radio connections which can no longer handle that connections is different from an overloaded base station or a failed trunk line in the MSTO.

Streter also does not send a message identifying the one or more mobile radio subscriber unit connections being handled by a failed data processing device. The only message identified

by the Examiner is the blockage report, and there is no description in Streter that the blockage report includes any identification of existing and ongoing user connections affected by a detected failure in a node. The message sent from the cell site processor 60 in Streter to the MTSO 18 is a "blockage factor."

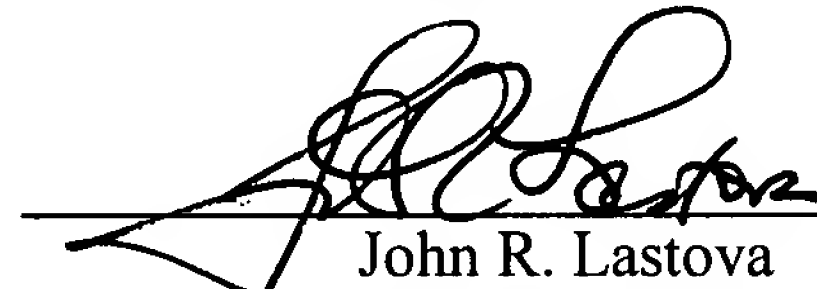
Regarding the list of active mobile connections included in that message, the Examiner's attention is directed to claims 6-10, 20, 25-27, and 35-38. That Streter's MTSO "can determine a list of mobile stations connected to a base station that has blockade factor..." is not the same as Streter disclosing the MSTO determining such a list and sending it any where.

The anticipation rejection of all claims in Streter should be withdrawn. The application is now in condition for allowance. An early notice to that effect is earnestly solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By:



John R. Lastova
Reg. No. 33,149

JRL:maa
901 North Glebe Road, 11th Floor
Arlington, VA 22203
Telephone: (703) 816-4000
Facsimile: (703) 816-4100